



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/146790

PRELIMINARY RECITALS

Pursuant to a petition filed January 22, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on February 19, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits effective February 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On January 17, 2013, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would be reduced from \$80/month to \$64/month due to an increase in his income.

3. Petitioner's income includes Social Security retirement (SSRE) benefits of \$252/month, Social Security Income (SSI) benefits of \$478/month, state SSI benefits of \$83.78/month and Medicare premium benefits of \$104.90/month. Petitioner's total unearned income is \$918.68/month.
4. Petitioner has excess medical expenses of \$69.90 (\$104.90 Medicare premium - \$35 standard).
5. Petitioner has rent expense of \$157/month.
6. On January 22, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Eligibility for FoodShare benefits is based on meeting financial and non-financial eligibility requirements. FoodShare Wisconsin Handbook (FSH), §1.1.3. A threshold financial eligibility requirement is the gross income test. The gross income limit for most households is 200% of the Federal Poverty Level (FPL). Id., 4.2.1.1. The 200% FPL amount for a group of one is \$1,862.00. Id., §8.1.1. Income must be converted to a monthly amount. 7 Code of Federal Regulations, §273.10(c)2(i).

Once a household has passed the gross income limit that household moves on to the net income test and allotment calculation. For Petitioner's benefit, I will describe that process.

Earned income is counted for the purpose of determining FS eligibility and allotments levels. FoodShare Wisconsin Handbook, §4.3.2. Unearned income is also counted. Id., §4.3.4.1. A standard deduction of \$149 is applied to all household income for a household of 1 to 3 people. Id., §4.6.2. The earned income deduction is 20%. Id., §4.6.3. These two items are deducted from gross income to arrive at adjusted household income. Shelter and utility expenses in excess of 50% of that adjusted household income is deducted. Id., §4.6.7. Also see 7 CFR 273.10 generally regarding budgeting calculations. Finally, the allotment applicable to a household is then reduced by 30% of the household's net income. 7 CFR 273.10(e)(2)(ii)(A).

In this case, the Petitioner's total household income is \$918.68/month. He passes the gross income limit test. The agency clarified the manner in which it arrived at the monthly income at the hearing and noted that it includes the \$104.90/month premium that is paid on the Petitioner's behalf for Medicare.

I reviewed the agency's calculation regarding the Petitioner's monthly FS allotment. Based on the Petitioner's excess medical expense, shelter and utility expense and standard deductions, I conclude the agency properly allotted \$64/month in FS benefits to the Petitioner effective February 1, 2013.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS allotment effective February 1, 2013.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

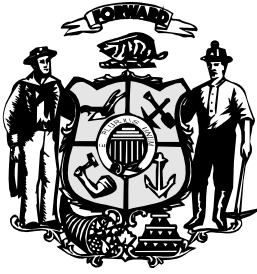
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 15th day of March, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 15, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability